

# Fiscal Information

## Indiana Trial Courts: 2000 Fiscal Information

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Pursuant to Indiana Code 33-2.1-7-3, the Division of State Court Administration is directed to collect and compile statistical data on the receipt and expenditure of public monies by and for the operation of the courts.

This portion of the report presents a general financial overview of the expenditures of Indiana's courts and revenues generated through their operation. The financial information is gathered on an annual basis at the end of each calendar year. The data is gathered manually on forms that call for the court's requested and approved budget, the actual expenditures and the amounts collected by the clerk through the various fees and costs. This report, however, reflects only the expenditure and revenue data; the requested and approved budgets are available, but are not published here.

### Expenditures

The Supreme Court, Court of Appeals and Tax Court are funded through appropriations from the state general fund. The Indiana State Auditor's Report contains information about the expenditures by these courts and other state level expenditures on related functions.

Indiana's trial courts are funded primarily through county funds. State funds pay for a portion of the judges' salaries<sup>1</sup> and for senior judge and some special judge expenses.<sup>2</sup> In addition, state matching funds are available to the counties as reimbursement for some pauper defense expenses and expenses associated with guardian ad litem services for abused and neglected children. Often, courts receive grants and generate user fees, which fees are expended on court services. All such expenditures, regardless of their source, are reflected in this report. In some of the more populous counties, separate budgets are maintained for probation services, juvenile services and pauper defense services. These expenses have been included in the final totals. Expenditures on juvenile detention centers which are budgeted through the courts are also included. Expenditures which are not included are those not directly related to the courts' operation, such as the prosecuting attorney's office and the clerk's office.

The city and town courts are funded by the respective municipalities. In many instances a distinct city or town court budget is not maintained, and all expenses are paid directly from the local general fund. This practice makes it difficult to provide accurate expenditure information on the city and town courts.

The Marion County Small Claims Courts are funded by the respective townships through budget appropriations.

### Revenues

Revenues generated through the operation of the trial courts are collected, accounted for and disbursed by the Clerk of the Circuit Court, an independently elected constitutional office. The Clerk of the Circuit Court also functions as the clerk of the county and, as such, performs many other functions not related to court operations.

Revenues are generated primarily from filing fees, costs, fines, and user fees assessed to the litigants. They are disbursed to either the state, county or local general fund or to a long list of special funds established by the Legislature for specific programs and services. In order to provide the information needed to fulfill this requirement, trial courts invariably must rely on the figures provided to them by the clerk's office which actually collects the monies. As a result, the revenue reporting forms have been designed to correlate the fee collection reports used by the clerks. This is important as it underscores the nature of the data presented in this report and the fact that it is not intended as an actual accounting of receipts.

Revenues generated through the city, town and Marion County Small Claims Courts are collected by the local clerk and disbursed pursuant to statutory provisions. The only direct payment fee in existence is the personal service of process fee charged to small claims litigants in the Marion County Small Claims Courts. This fee goes to the constable and his or her deputies.<sup>3</sup>

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Costs and fees reflected in this report are as follows:

### Fees Going To The General Fund Of The State, County Or Municipality

**Court Costs:** THE COURT COST IS THE BASIC EXPENSE FOR FILING A CASE AND THE BASIC COST ASSESSED UPON A CONVICTION IN A CRIMINAL CASE OR A JUDGMENT IN AN INFRACTION OR ORDINANCE VIOLATION. THE STATUTORY COSTS IN ALL COURTS EXCEPT THE MARION COUNTY SMALL CLAIMS COURTS ARE AS FOLLOW:

Felony or misdemeanor conviction - \$120.00<sup>4</sup>

Judgment for an infraction or ordinance violation - \$70.00<sup>5</sup>

Juvenile action - \$120.00<sup>6</sup>

Civil action - \$100.00<sup>7</sup>

Small claim - \$35.00<sup>8</sup> (except in Marion County Small Claims Courts, where the fee is governed by a special statute.)

Probate/trust - \$120.00<sup>9</sup>

These costs include the cost of service of process by mail with return receipt requested. Additional costs are charged for service of process by the sheriff.<sup>10</sup>

**Distribution of Court Costs:** Of the amount collected through court costs in the circuit, superior, county and probate courts, the clerk distributes to the different levels of government for deposit in the respective general funds the following portions:

- a. State general fund - 70%<sup>11</sup>
- b. County general fund - 27%<sup>12</sup>
- c. Local municipal fund - 3%, but only if a city or town maintains a law enforcement agency that prosecutes at least 50% of its ordinance violations in a circuit, superior, county or municipal court in the county.<sup>13</sup> The county auditor determines the amount to be distributed to each city and town within the county based upon a specific formula.<sup>14</sup>

The court costs collected through the city and town courts are distributed as follows:<sup>15</sup>

- a. State general fund - 55%
- b. County general fund - 20%
- c. City or town general fund - 25%

The costs in the Marion County Small Claims Court are \$5 plus 45% of the costs charged in infraction and ordinance violation cases, totaling \$32.00. The cost of service of process in these courts is \$6.00 for service by registered or certified mail and \$8.00 for service by a constable. It is charged in addition to any filing fee. These courts are supported by the respective townships, and all costs go to the township general funds. All service of process fees go directly to the elected constables and their deputies.<sup>16</sup>

**Infraction Judgments:** This category reflects monies collected as infraction judgments in cases involving infractions. These funds are designated for the state general fund.

**Civil Penalties for Local Ordinance Violations:** This category reflects amounts collected as judgments for local ordinance violations. These funds go to the general funds of the respective municipalities.

**Support Fees:** This category reflects amounts collected through a fee charged in cases where a final court order requires a party to pay support or maintenance payments through the clerk of the court. It is intended to defray some of the expenses associated with the collection and disbursement of support. This fee may be \$10, \$20, or \$30, depending on when it is paid. The fee goes to the county general fund.<sup>17</sup>

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**Bond Administration Fee:** This category reflects amounts collected through a fee charged to defendants posting bond. When a defendant executes a bail bond with the clerk, 10% or \$50.00, whichever is less, may be retained as the administrative fee.<sup>18</sup> These fees go to the county general fund.

**Document Fee:** This category reflects fees collected by the clerk for copying and preparing documents.

**Interest on Investments:** This category reflects income generated through deposits of various funds.

**Fees Going To Court Related Services:** In addition to the foregoing costs and fees, the legislature has established a number of other fees designated for particular programs related to the operation of the court. Following are fees collected in certain cases and used for court related services:

**Adult Probation User Fee:** This category reflects user fees charged to adults placed on probation after a conviction of a felony or misdemeanor. In felony cases the fee is mandatory; it ranges between \$25 and \$100 as an initial fee and between \$5 and \$15 as a monthly user's fee for each month the person remains on probation. In misdemeanor cases, the probation user's fee is optional with the court. If imposed, the initial fee cannot exceed \$50, and the monthly fee cannot exceed \$10.<sup>19</sup> The fees are deposited in a county adult probation services fund which is used for probation services.

**Juvenile Probation User Fee:** A court may order a juvenile and/or the parent of a juvenile who is placed on supervision to pay an initial user fee from \$25 to \$100, and a monthly user fee from \$5 to \$15. These fees are deposited with a Probation Services Supplemental Juvenile Fund and are used for a specifically designated purpose.<sup>20</sup>

**Guardian ad Litem Fee:** The trial court may order the parent or estate of a child for whom a guardian ad litem or a special advocate is appointed to pay up to \$100 for the service. The money is deposited in a designated fund and used for providing these services.<sup>21</sup>

**Supplemental Public Defender Fee:** When public funds have been expended on defense, the court must order the clerk to remit the difference, if any, between the bond deposit and the cost of pauper defense and to retain the rest. The retained amount is deposited in a Supplemental Public Defender Services Fund established under IC 33-9-11.5.<sup>22</sup> Any amounts collected under these provisions are reflected in the "Supplemental Public Defender Fee" category.

**Alcohol Abuse Deterrent Program Fee or Medical Fee:** The circuit court may establish an alcohol abuse deterrent program after the county fiscal body adopts a resolution approving the program. This applies to a circuit court that is not authorized to establish an alcohol and drug services program under IC 12-23-14-1.<sup>23</sup>

The program applies to criminal proceedings in which the use or abuse of alcohol is a contributing factor or a material element of the offense. In such cases, the court may, with the consent of the defendant and the prosecutor, conditionally defer the proceeding for up to 4 years (with exception for certain repeat offenses) and may order the defendant to complete the program. The court must order the deferred defendant to pay a deterrent program fee of no more than \$350 or a medical fee of no more than \$100, or both, unless the defendant is indigent.<sup>24</sup> The probation departments collect and deposit these fees into the Supplemental Adult Probation Services Fund.<sup>25</sup>

### Fees Going To Special Funds At The State, County and Local Level

**Fines and Forfeitures.** Fines and forfeitures are assessed in criminal convictions. Pursuant to constitutional provisions, all fines and forfeitures go to the State Common School Fund.<sup>26</sup>

**Vehicle License Fee.** This fee is collected as an infraction judgment in overweight vehicle cases. However, rather than going to the state general fund, it is designated for the state highway fund.<sup>27</sup>

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**Late Surrender Fee.** When a bonded defendant fails to appear, a late surrender fee based on a percent of the value of the bond is assessed against the bondsman. Fifty percent (50%) of this fee is deposited in the Police Pension Trust Fund set up under IC 36-8-10-12, and fifty percent (50%) is deposited in a county extradition fund established under IC 34-33-14.<sup>28</sup>

**Prosecutorial Pretrial Diversion Program Fee.** The prosecuting attorney may withhold the prosecution of a person charged with a misdemeanor if the person agrees to conditions of a pre-trial diversion program offered by the prosecutor. The accused is charged \$50.00 as an initial fee and \$10.00 for each month he or she remains in the program. The standard criminal court costs and fines are not assessed against the successful defendant but a \$50.00 court cost is assessed. The diversion fee is used by the prosecutor's office for any purpose appropriated by the county council.<sup>29</sup>

**Prosecutorial Deferral Program Fee.** When the county prosecutor or attorney for the municipal corporation sets up a deferral program for infractions and ordinance violations, a deferral program fee is assessed in lieu of the standard court costs and judgments. The program consists of an agreement with the law enforcement official whereby the defendant agrees to pay an initial user fee of \$52.00 and a monthly user fee of \$10 and to comply with the conditions of the program. No guidelines exist for the conditions or duration of such deferral programs, and it is not clear how long a monthly user fee may be charged. If the action involves a moving traffic violation, the defendant is also assessed a court cost of \$25.<sup>30</sup>

The clerk of a traffic violations bureau can accept a program agreement, and the court must dismiss the infraction or ordinance citation when the prosecutor or municipal attorney requests the dismissal of a deferred case.

**Drug Abuse, Prosecution, Interdiction and Corrections Fee.** The court must assess this fee of at least \$200 and not more than \$1,000 against a person convicted in any court (including city and town courts) of an offense under IC 35-48-4 (controlled substance). In determining the amount of the fee, the court must consider the person's ability to pay.<sup>31</sup> The clerk collects this fee and distributes, semi-annually, 25% to the state auditor for the State User Fee Fund established under IC 33-19-9-2 and 75% to the county auditor for the County Drug Free Community Fund established under IC 5-2-11.<sup>32</sup>

**Alcohol and Drug Countermeasures Fee.** In each action in which a person is found to have committed an offense or violation of a statute defined as an infraction under IC 9-30-5 (DUI), or a person who has been adjudicated a delinquent for an act that would be an offense under IC 9-30-5 if committed by an adult, and the person's driving privileges are suspended, the clerk shall collect an Alcohol and Drug Countermeasures Fee of \$200.<sup>33</sup> The clerk distributes 25% of these fees to the state auditor for deposit in the State User Fee Fund established under IC 33-19-9-2 and 75% to the county auditor for deposit in the County Drug Free Community Fund established under IC 5-2-11.<sup>34</sup>

**County Drug Free Communities Fund Fee.** This fund receives 75% of the Drug Abuse, Prosecution, Interdiction and Corrections Fee and 75% of the Alcohol and Drug Countermeasures fee.<sup>35</sup>

**User Fees.** In addition to court costs and the fees shown above, the legislature has established a number of additional special fees which are assessed in certain cases. They are designated for special programs or purposes operating at the state, county or local level. This report reflects the amounts generated through such fees for state, county and local level user fee funds. The following is a description of such additional fees:

**Marijuana Eradication Program Fee.** In any conviction under IC 35-48-4 (offenses relating to controlled substances) in a county where a weed control board has been established pursuant to IC 15-3-4.6-4.1, the court may assess no more than \$300 as this fee. The fee is deposited with the county user fee fund.<sup>36</sup>

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**Alcohol and Drug Services Fee.** If a county has established an alcohol and drug services program, this fee may be collected in criminal, infraction and ordinance violations. It is set by court rule and may not exceed \$300.<sup>37</sup>

**Law Enforcement Continuing Education Program Fee.** This is a \$3.00 fee which is charged in each criminal conviction and each infraction and ordinance violation.<sup>38</sup>

**Informal Adjustment Program Fee.** This fee of \$5 to \$15 may be ordered by the court to be paid in cases where a juvenile has been placed in an informal adjustment program prior to having a delinquency petition filed.<sup>39</sup>

**Highway Work Zone Fee.** A fifty cent highway work zone fee is charged in each traffic offense defined in IC 9-30-3-5. (This includes traffic infractions, misdemeanors and ordinance violations). If the offense involves exceeding a work-site speed limit, the fee is \$25.50. This fee is designated for the Highway Department to pay for the cost of hiring off-duty police as guards at such work zones.<sup>40</sup>

**Safe School Fee.** In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court assesses a safe school fee of \$200 to \$1,000.<sup>41</sup>

**Child Abuse Prevention Fee.** This \$100 fee is assessed against a defendant who is found guilty of certain criminal offenses against the person or offenses involving child molestation and neglect.<sup>42</sup>

**Domestic Violence Prevention and Treatment Fee.** Effective July 2, 2001, this \$50 fee is charged in each criminal action in which the defendant is found guilty of murder, causing suicide, voluntary manslaughter, reckless homicide, battery and rape against his or her spouse.<sup>43</sup>

**Distribution of user fees to State User Fee Fund.**<sup>44</sup> The following fees are distributed to this fund:

- 25% of the Drug abuse, prosecution, interdiction, and corrections fees;
- 25% of the Alcohol and drug countermeasures fees;
- 50% of the Child abuse prevention fee;
- 100% of the Domestic violence prevention and treatment fees;
- 100% of the Highway work zone fees; and
- 100% of the Safe school fees.

Semiannually the state treasurer distributes \$1,288,000 to this fund for deposit in the following programs:<sup>45</sup>

- 14.98% for the alcohol and drug countermeasures fund used to fund programs developed by the Office of Traffic Safety within the Indiana Department of Transportation;<sup>46</sup>
- 8.42% into a drug interdiction fund administered by the Indiana State Police and used to provide additional funding for investigations and programs related to illegal drug activity;<sup>47</sup>
- 4.68% for a drug prosecution fund administered by the Prosecuting Attorneys Council and used to provide assistance to prosecuting attorneys in investigating and prosecuting drug related activities, bringing forfeiture actions, obtaining training, equipment and assistance that enhance the ability of prosecuting attorneys to reduce illegal drug activity;<sup>48</sup>
- 5.62% in a corrections drug abuse fund administered by the Indiana Department of Corrections and used to provide drug abuse therapy for offenders;<sup>49</sup>
- 22.47% to a state drug free communities fund administered by the State Treasurer and used to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for coordinating treatment, education, prevention and criminal justice efforts.<sup>50</sup> Any person, organization or entity may

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receive grants from the fund for purposes included in a comprehensive plan approved by the Commission for a Drug Free Indiana;

- 7.98% to the Indiana Department of Transportation to pay off-duty police officers to perform certain duties at highway work zones;<sup>51</sup>
- 20.32% to the family violence and victim assistance fund used to provide funding for domestic violence prevention and treatment, child abuse prevention and victim and witness assistance programs;<sup>52</sup>
- 15.53% to the Indiana safe school fund administered by the Indiana Criminal Justice Institute and used to promote school safety through the purchase of equipment for the detection of weapons and materials to enhance school safety;<sup>53</sup>
- any remainder amount is distributed to the judicial technology and automation project fund.<sup>54</sup>

***Distribution of user fees to County User Fee Fund.*** This fund is used to fund various programs and services and is administered by the county auditor. The following fees are deposited in this fund:<sup>55</sup>

- Informal adjustment program fees;
- Marijuana eradication program fees;
- Alcohol and Drug services fees;
- Law enforcement continuing education program fees; and
- Alcohol abuse deterrent program fee or medical fee or both. (Effective 7/1/96, this fee is no longer deposited in this fund.) Also deposited in the county user fee fund are the prosecutorial pretrial diversion and deferral fees, as well as jury fees, which are reflected separately.

***Distribution of user fees to Local Level User Fund.*** The following fees are deposited in this fund:

- Alcohol and Drug Services Fee charged in cases in the City and Town Courts;<sup>56</sup> and
- Law Enforcement Continuing Education Program Fee charged in cases in the City and Town Courts.<sup>57</sup>

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1. IC 33-13-12-7.1.
2. Administrative Rule 5.
3. IC 33-11.6-8-4(d) and IC 33-11.6-4-15.
4. IC 33-19-5-1(a).
5. IC 33-19-5-2(a).
6. IC 33-19-5-3(a).
7. IC 33-19-5-4(a).
8. IC 33-19-5-5(a).
9. IC 33-19-5-6.
10. IC 33-19-3-5.
11. IC 33-19-7-1.
12. IC 33-19-7-2.
13. IC 33-19-7-3(a).
14. IC 33-19-7-3(b).
15. IC 33-19-7-4.
16. IC 33-11.6-4-15.
17. IC 33-19-6-5.
18. IC 35-33-8-3.2.
19. IC 35-38-2-1(c) and (d).
20. IC 31-40-2-1.
21. IC 31-40-3-1.
22. IC 35-33-8-3.2.
23. IC 9-30-9-8., and IC 33-19-8-5.
24. IC 9-30-9-8.
25. IC 33-19-6-11(b).
26. Const. of Ind., Article 8, SEC. 2.
27. IC 9-20-18-12(f).
28. IC 27-10-2-12(j).
29. IC 33-19-5-1(c) and IC 33-19-8-7.
30. IC 33-19-5-2(e); IC 33-19-8-3(b)(4); IC 33-19-8-5; and IC 34-28-5-1.
31. IC 33-19-6-9 and IC 5-2-11-5.
32. IC 33-19-7-1, as amended by P.L. 4-1994, SEC. 18, and IC 33-19-7-4.
33. IC 33-19-6-10.
34. IC 33-19-7-1(c).
35. IC 5-2-11 and IC 33-19-7-1.
36. IC 33-19-6-6.
37. IC 33-19-6-7.
38. IC 33-19-6-7(c).
39. IC 33-19-8-5(b) and IC 31-34-8-8.
40. IC 8-23-2-15 and IC 33-19-6-14.
41. IC 33-19-6-16.3.
42. IC 33-19-6-12, as added by P.L. 4-1994, SEC.15.
43. IC 33-19-6-13.
44. IC 33-19-7-1(b).
45. IC 33-19-9-4, as amended by P.L.12-1990, SEC 9; P.L. 2-1991, SEC.95; P.L.50-1993, SEC.7; P.L.4-1994, SEC.20; P.L.61-1995, SEC.9; P.L.183-2001, SEC.15.
46. IC 9-27-2-11 and IC 9-27-2-2.
47. IC 10-1-8-2.
48. IC 33-14-8-5.
49. IC 11-8-2-11.
50. IC 5-2-10-2.
51. IC 8-23-2-15.
52. IC 12-18-5-2 and IC 12-18-5-4.
53. IC 5-2-10.1 et seq.
54. IC 33-2.1-7-10.
55. IC 33-19-8-5.
56. IC 33-19-6-7.